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S. HRG. 100-30

TO AMEND SECTION 402 OF THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977

HEARING

BEFORE THE

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

OF THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

S. 643

A BILL TO AMEND SECTION 402 OF THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977 TO PERMIT STATES TO SET ASIDE IN A SPECIAL TRUST FUND UP TO 10 PER CENTUM OF THE ANNUAL STATE ALLOCATION FROM THE ABANDONED MINE LAND RECLAMATION FUND FOR EXPENDITURE IN THE FUTURE FOR PURPOSES OF ABANDONED MINE RECLAMATION

MARCH 31, 1987

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Committee on Energy and Natural Resources

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S311-39

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TO AMEND SECTION 402 OF THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977

TUESDAY, MARCH 31, 1987

U.S. SENATE,
SUBCOMMITTEE ON MINERAL RESOURCES
DEVELOPMENT AND PRODUCTION,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m. in room SD-366, Dirksen Senate Office Building, Hon. John Melcher, presiding.

OPENING STATEMENT OF HON. JOHN MELCHER, A U.S. SENATOR FROM THE STATE OF MONTANA

Senator MELCHER. The subcommittee will come to order.

Today the Subcommittee on Mineral Resources Development and Production will hear testimony on Senate bill 643, a bill to amend section 402 of the Surface Mining Control and Reclamation Act of 1977 with respect to State abandoned mine reclamation funds.

The bill was introduced earlier this month by my distinguished colleague from Wyoming, Senator Wallop, on behalf of himself and Senator Simpson.

I am pleased to welcome our witnesses here today and thank them for taking time from their busy schedules to present their views to us. I would like to extend a special welcome to Rich Bechtel, who is here on behalf of the State of Montana. The Subcommittee looks forward to hearing your testimony.

S. 643 would permit States to set aside in a special State trust fund up to 10 percent of the annual State allocation from the abandoned mine reclamation fund. These amounts would be earmarked for future abandoned mine reclamation projects in the State.

Currently under the Surface Mining Control and Reclamation Act, a State can lose abandoned mine land funds by not expending them within 3 years from the date of allocation. These funds then become available for expenditure elsewhere at the discretion of the Secretary of the Interior.

S. 643 would permit the States to hold, without respect to this 3-year limitation, a limited amount of their State share abandoned mine land funds for future use. The bill also provides that these funds be spent after the authorization for the abandoned mine land reclamation fee expires in 1992.

It is my belief that S. 643 would provide States with needed additional flexibility with respect to their abandoned mine land programs. The bill would also ensure that these States could have funds available for reclamation projects after 1992.

There is a need for this in Montana and I suspect in other States as well. In Montana, for example, we have a couple of absolutely critical multimillion dollar reclamation projects in Butte and in Red Lodge which will at some point have to be addressed more comprehensively than we have been able to do so far. This bill may provide a beginning to address those types of problems which will extend past 1992.

[The text of S. 643 follows:]

II

100TH CONGRESS
1ST SESSION

S. 643

To amend section 402 of the Surface Mining Control and Reclamation Act of 1977 to permit States to set aside in a special trust fund up to 10 per centum of the annual State allocation from the abandoned mine land reclamation fund for expenditure in the future for purposes of abandoned mine reclamation.

IN THE SENATE OF THE UNITED STATES

MARCH 3, 1987

Mr. WALLOP (for himself and Mr. SIMPSON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To amend section 402 of the Surface Mining Control and Reclamation Act of 1977 to permit States to set aside in a special trust fund up to 10 per centum of the annual State allocation from the abandoned mine land reclamation fund for expenditure in the future for purposes of abandoned mine reclamation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 402(g) of the Surface Mining Control and Reclamation Act of 1977 is amended by redesignating paragraph (3) as paragraph (4) and by adding the following new paragraph after paragraph (2):

"(3) SPECIAL STATE SET-ASIDE FOR FUTURE EXPENDITURE.—Notwithstanding the proviso contained in paragraph (2), any State may receive and retain, without regard to the three-year limitation referred to in such proviso, up to 10 per centum of the annual State allocation under paragraph (2) if such moneys are deposited in a special trust fund established under State law for expenditure by the State solely to accomplish the purposes of this title after August 3, 1992. All moneys so allocated to the special trust accounts, as well as all interest earned, shall be considered State moneys.".

○

Senator MELCHER. We have with us the ranking member of the subcommittee, Senator Hecht from Nevada, and another member of the subcommittee, Senator Wallop. I will recognize——

Senator HECHT. No statement.

Senator MELCHER. All right. I will recognize Senator Wallop for a statement.

STATEMENT OF HON. MALCOLM WALLOP, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator WALLOP. Mr. Chairman, thank you very much.

Both Senator Simpson and I really appreciate your willingness to hold this hearing today on a bill that has the support of our entire Congressional delegation, of Governor Sullivan, and the Wyoming Department of Environmental Quality.

The bill that we introduced in the Senate, S. 643, and Congressman Cheney introduced in the House, H.R. 1434, on March 3, amends the Surface Mining Control and Reclamation Act of 1977 to allow the State and any other State that cares to do so, the ability to set aside up to 10 percent of its annual allocation in the abandoned mine lands fund, in a special trust.

The money in this special fund could then be used after the abandoned mine land tax on coal expires in 1992 to address the remaining mine reclamation problems, such as the ongoing and persisting devilish problem of mine subsidence problems encountered by the City of Rock Springs.

Also, I would like to stress this legislation does not alter any other State's allocation and does not change the original intent of the Surface Mining Act or the purpose for which the abandoned mine land monies were to be spent.

Mines first appeared in this part of the State when the railroad pushed through the southern part of the State in the 1860's, and underground coal mining began along the railroad line and continued into the 1950's. There were a number of underground mines in Sheridan County as well, also serving the railroads.

In time, the camps were replaced by homes and businesses that expanded over subsidence as the City of Rock Springs grew.

Because mine subsidence takes some time to show surface effects, it causes a feeling of false security. Homeowners are shocked when a subsidence suddenly occurs after they have lived in the home for decades.

Fortunately or unfortunately, according to several brilliant studies done in several Wyoming communities by the Department of Environmental Quality, there remain hundreds of acres of mine points that have yet to subside.

Tragically, a vicious circle has now developed. Because of the ongoing subsidence, the Federal Housing Administration does not want to insure home loans in many areas in the city of Rock Springs. This is on top of $11 million of monies targeted to Rock Springs.

Since the establishment of the law, Wyoming has paid more money into the fund than any other State, $250 million, and the State has received over $100 million, placing us fourth among the States that have received benefits.

We fear all of these problems just will not end when 1992 comes. It is because of imperfect or insufficient technology or because of just plain bad luck. We feel it is only prudent to be able to set aside these monies with the idea in mind that they would be used in future emergencies.

I really appreciate your holding the hearing, John.

Senator MELCHER. Thank you, Malcolm. I think the bill is very timely and necessary.

We will now hear from our first witness, Jed D. Christensen, Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior. Please proceed, Mr. Christensen.

STATEMENT OF JED D. CHRISTENSEN, DIRECTOR, OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT, DEPARTMENT OF THE INTERIOR

Mr. CHRISTENSEN. Thank you, Mr. Chairman.

I am here today at your request to testify on S. 643, a bill introduced by Senators Wallop and Simpson which would allow States to establish special trust funds to be utilized after the 1992 expiration of the abandoned mine land fund under Title IV of the Surface Mining Control and Reclamation Act.

Because of the short notice, we have not been able to complete an analysis of the bill and obtain an official Administration position on it. However, I would be pleased to respond to any questions the Subcommittee might have at this time.

Senator MELCHER. Mr. Director, that is very short testimony and right to the point.

How much time would you think you would need?

Mr. CHRISTENSEN. I would think it would take several weeks, Mr. Chairman, to clear an Administration position on this particular bill.

Senator MELCHER. Which means it would not take you very long to analyze it, but it might take OMB and other facets of the Government more time.

Mr. CHRISTENSEN. That is exactly right.

Senator MELCHER. That is very candid and very helpful testimony.

It is sort of mystical to see how administrations proceed. It is not profoundly difficult, the concept.

Speaking not for the Administration, but just as one of a number of human beings with an ordinarily facile mind, what do you think of the approach of this legislation?

Mr. CHRISTENSEN. Senator, I think the principal concept makes a lot of sense from several perspectives. We are pleased that most States have abandoned land mine programs and I think they have been very successful in doing what they set out to do.

I think the problem that the Administration would have when we start talking with the Treasury and OMB, lies in several areas. One is the interest provision of the legislation.

Secondly, the way the fund works is that the States are allocated monies once the Congress appropriates them to us. However, the money is not actually drawn down from the United States Treas-

ury until the State is ready to expend that money—using a contractor or whatever it might be.

I think the major problem we would run into when we try to get this through the Administration has to do with that particular aspect.

One other concern is that this would grant funds to the State, but it wouldn't necessarily require them to continue a Title V regulatory program.

Right now the way the surface mining law is set up is that without a regulatory program a State does not receive abandoned mine land funds. An example of that is the State of Tennessee. They have turned the regulatory program back over to us and do not receive abandoned mine funds.

Senator WALLOP. Are you aware of acts to extend money beyond 1992 and those benefits that specifically relate to Title IV?

Mr. CHRISTENSEN. At this point we haven't heard any discussion of what will happen in 1992 with the abandoned mine land fund.

Senator WALLOP. Why does it seem complicated for the States to do something in their own behalf which they know is going to be the case? It is not as though there is anything mystical about it. I do not know of anybody who can accurately predict subsidence problems, even when they know of the potential.

Mr. CHRISTENSEN. Again, a lot of this is personal opinion, Senator Wallop. However, it would appear to me that the States, particularly a State like Wyoming, would be much better off having their own program rather than a Federally run program. That way they would be able to keep all of their own funds, do their own work and set the tax at a level appropriate for their State.

Senator WALLOP. That may well be and that probably will be. But in the mean time, the money is allocated to them under a formula, the State is putting in substantially more money into the fund than it receives from under it. Why would it be irresponsible to prudently use monies that are allocated to you that you have already paid?

Mr. CHRISTENSEN. I wouldn't disagree with you on that.

Senator WALLOP. I think that is the only purpose, is really for them to be prudent. They may well have to do some other things in addition to the 10 percent set-aside. It is not a whole lot of money between now and the end of 1992.

Mr. CHRISTENSEN. Senator Wallop, I might introduce for the record a chart we did just for discussion purposes. It shows for a 4-year period, 1984 through 1987, what the set-aside would be for each State if they chose to set aside the money.

[The chart follows:]

19-Mar-87

IMPACT OF PROPOSED 10 PERCENT STATE-SHARE SET-ASIDE FROM FY 1984-1987

	STATE SH FY 1984	10 PRCNT SET-ASIDE	STATE SH FY 1985	10 PRCNT SET-ASIDE	STATE SH FY 1986	10 PRCNT SET-ASIDE	STATE SH FY 1987	10 PRCNT SET-ASIDE	TOTAL SETASIDE FY 84-87
Alabama	254,994	25,499	1,286,147	128,615	3,054,409	305,441	4,651,684	465,168	924,723
Alaska	319,610	31,961	149,759	14,976	189,089	18,909	246,616	24,662	90,507
Arkansas	60,000	6,000	125,240	12,524	11,673	1,167	0	0	19,691
Colorado	5,417,693	541,769	1,485,845	148,585	2,195,644	219,564	1,999,173	199,917	1,109,835
Illinois	8,869,223	886,922	12,918,870	1,291,887	6,447,062	644,706	9,381,433	938,143	3,761,659
Indiana	5,904,453	590,445	8,360,148	836,015	5,518,940	551,894	3,139,627	313,963	2,292,317
Iowa	368,696	36,870	553,131	55,313	79,047	7,905	0	0	100,087
Kansas	79,466	7,947	332,725	33,273	161,008	16,101	315,004	31,500	88,820
Kentucky	31,074,937	3,107,494	30,881,785	3,086,179	16,993,952	1,699,395	12,539,885	1,253,988	9,149,056
Louisiana	0	0	0	0	0	0	32,096	3,210	3,210
Maryland	433,395	43,340	789,097	78,910	389,213	38,921	932,015	93,201	254,372
Missouri	1,890,240	189,024	973,577	97,360	1,090,253	109,025	740,539	74,054	469,463
Montana	7,346,874	734,687	5,196,938	519,894	5,220,335	522,034	6,653,753	665,375	2,441,990
New Mexico	656,074	65,607	2,448,576	244,860	1,520,166	152,017	1,990,896	199,090	661,573
North Dakota	636,164	63,616	356,153	35,616	1,168,158	116,816	2,334,110	233,411	451,459
Ohio	5,530,000	553,000	6,382,984	638,298	4,692,027	469,203	4,122,957	412,296	2,072,797
Oklahoma	862,870	86,287	681,754	68,175	644,899	64,489	332,775	33,277	252,229
Pennsylvania	21,370,000	2,137,000	15,209,124	1,520,912	10,128,522	1,012,852	10,096,671	1,009,667	5,680,432
Tennessee	1,160,382	116,038	0	0	0	0	0	0	116,038
Texas	257,743	25,774	720,694	72,069	1,944,713	194,471	6,092,522	609,252	901,567
Utah	1,653,810	165,381	2,285,432	228,543	866,636	86,664	998,944	99,894	580,482
Virginia	6,128,113	612,811	3,657,440	365,744	3,398,125	339,813	2,106,347	210,635	1,528,802
West Virginia	15,113,475	1,511,348	20,517,886	2,051,789	10,492,516	1,049,252	7,956,607	795,661	5,411,049
Wyoming	34,262,073	3,426,207	38,467,635	3,846,764	22,432,122	2,243,212	22,858,347	2,285,835	11,804,018
TOTALS	149,652,285	14,965,029	157,800,983	15,780,098	98,632,500	9,863,250	99,572,000	9,957,200	50,166,177

Mr. CHRISTENSEN. Over that period of time, if every State receiving funds were to set aside the entire 10 percent it would amount to around $50 million. We didn't project this out to 1992 because we are not sure what the appropriation will be for those funds.

Senator WALLOP. $50 million?

Mr. CHRISTENSEN. $50 million would be the maximum amount if every State decided to do that.

Senator WALLOP. But every State has not decided to have an abandoned mine program.

Mr. CHRISTENSEN. If every State decided to take 10 percent of their AML fees and set it aside as the bill proposes, that would be that amount of money for that 4-year period. This is for discussion purposes.

Senator WALLOP. I understand that. The problem is, since every State does not have a program——

Mr. CHRISTENSEN. There are only a couple of States that do not.

Senator WALLOP. Yes. Well, a couple States do not have a program at all. A couple more might not want to reserve it all.

Mr. CHRISTENSEN. That is true.

Senator WALLOP. I do not know what difference that makes.

Senator MELCHER. I do not think it makes any difference, since if it were not earmarked for the States it would be earmarked for the Secretary. Is that not true?

Mr. CHRISTENSEN. That is right.

Senator MELCHER. So it is a question of whether States are going to retain a little bit more of their money in the trust, then it will not all go to the Secretary, because the money is going to be collected, it is going to be available.

It is a question of who has discretion, is it not?

Mr. CHRISTENSEN. It is a matter of where the money is, that's right. The money, the way it is now, stays in the Treasury until the States actually draw it down for expenditure.

Senator MELCHER. It would in either case, would it not?

Mr. CHRISTENSEN. Well, the way——

Senator MELCHER. Where do you think this bill puts the money?

Mr. CHRISTENSEN. The way this bill is, the States would be able to draw down the 10 percent, invest it, and after 1992 use it for their own purposes. It's hard to say, but it would appear that would probably have to be clarified at that point, but it would look like it would basically become a grant, so to speak, and become State money.

Senator WALLOP. I do not have anything further.

Senator MELCHER. Thank you very much, Mr. Director.

Our next witness is Rich Bechtel, representing the State of Montana.

STATEMENT OF RICH BECHTEL, WASHINGTON REPRESENTATIVE, STATE OF MONTANA

Mr. BECHTEL. Good morning, Senator.

Senator MELCHER. Please proceed, Rich.

Mr. BECHTEL. It's a pleasure to testify on behalf of S. 643. The nature of Montana's abandoned land mine program makes the concept of a trust fund for future years very sensible.

The Montana Abandoned Mine Reclamation program has worked well on over a thousand different reclamation problems since the start of the program. There are approximately 600 priority 1 and 2 coal sites, and about 400 of those have been completed. There are literally thousands of hard rock sites to be addressed.

The most serious reclamation problems are related to subsidence over abandoned underground coal mines. We have spent millions of dollars at major underground coal mines throughout the State and in most cases have only reclaimed the surface of the mine, while the underground voids remain to cause further problems at a later date.

At the Town of Red Lodge, which has a 100-year history of underground coal mining, over 60 percent of the town is undermined by multiple seam coal mining within 200 feet of the surface.

There is not enough money in our fund to backfill these mines. We can expect portions of the mines to collapse in the future, very likely beyond 1992. We are forced to fix the problems on the surface as they arise.

Senator, we face a similar problem in Butte, where we have spent about $1.7 million so far, excluding the Berkley Pit and Colorado tailings areas. About a hundred shafts and a hundred dumps and pits remain to be fixed. Correction of just one of the pits would require tens of millions of dollars.

Many of our coal subsidence reclamation projects have only addressed the visible surface voids, since complete underground backfill is not cost effective at a price of $25,000 to $100,000 per acre.

Montana has taken the approach of filing the surface subsidence voids as they occur while annually monitoring known underground coal mine sites for additional reclamation. Montana could not possibly afford total backfill of all known underground mines, as only a few projects would deplete our budget.

Since Montana's approach requires less specialized skills and equipment, it is very cost effective. The costs range from about $2,000 to $6,000 per acre.

This problem of cost constraints leads to a second problem which is becoming more and more apparent, the need to continue to monitor and maintain completed projects. Normally, smothering is the most cost effective technique to control mine and dump fires.

However, these fires do not cool off immediately. We have been monitoring former fire projects and find that the temperatures drop very slowly, at a rate of 3 to 5 degrees per year. Some Bureau of Mines fire control projects are still burning 20 years later, due to improper maintenance, as is in the case near Roundup.

In order to assure that these mine fires stay smothered, we must maintain the surface seal until the coal reaches a noncombustible temperature. It is estimated that 3 to 15 years monitoring and maintenance may be necessary to assure success of some projects.

Another maintenance problem is erosion control and receding. Though these problems generally occur in the first few years after reclamation projects, we often see later erosion from abnormal rainfall.

In summary, Montana supports the option put forth in S. 643. It appears to be a far-sighted and prudent amendment to section 402

which will extend the benefits of the program and levy long after they expire.

Mine subsidence problems and maintenance of completed reclamation projects will require continued work, though at a reduced funding level. The option of using 10 percent of the State's allocation to continue reclamation well after 1992 should provide sufficient funds to provide an interest bearing account which will last for as long as necessary to track abandoned mine problems which we know will occur.

Senator, if we were to put a pencil to that, it would be probably 5 years times 10 percent of $6 to $7 million. That would provide an interest bearing account of around $3 million.

I would be pleased to answer any questions that you might have.

[The prepared statement of Mr. Bechtel follows:]

TESTIMONY OF THE STATE OF MONTANA

BEFORE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

HEARING ON:

S.643, a bill to amend Section 402 of the
Surface Mining Control and Reclamation Act of 1977

10 a.m., Tuesday, March 31, 1987
366 Dirksen Senate Office Building

Mr. Chairman, the Montana Abandoned Mine Reclamation program has worked well on over 1,000 different abandoned mine reclamation problems since the start of the program. The most serious reclamation problems are related to subsidence over abandoned underground coal mines. We have spent millions of dollars at major underground coal mines throughout the state and in most cases have only reclaimed the surface of the mine while the underground voids remain to cause problems at a later date.

At the town of Red Lodge, which has a 100-year history of underground coal mining, over 60% of the town is undermined by multiple seam coal mining within 200 feet of the surface. There is not enough money in our fund to backfill these mines. We can expect portions of the mines to collapse in the future, very likely beyond 1992. We are forced to fix the problems on the surface as they arise.

Many of our coal subsidence reclamation projects have only addressed the surface voids that are visible since complete underground backfill is not cost effective at a price of $25,000 to $100,000 per acre. Montana has taken the approach of filling the surface subsidence voids as they occur while annually monitoring known underground coal mine sites for additional reclamation. Montana could not possibly afford total backfill of all known underground mines as this would deplete our budget on only a few

projects. While Montana's approach is very cost effective, it has the disadvantage of continued minor subsidence on many mines for the foreseeable future and well beyond 1992 when the abandoned mine fund will cease to be collected.

Another abandoned mine problem which is becoming more apparent is the need for annual maintenance on previously completed abandoned mine projects. Mine fire and mine dump fire control projects normally involve a smothering technique as the most cost effective solution, however, these fires do not cool off immediately when smothered. We have been monitoring former mine fire projects and the temperatures drop very slowly at a rate of 3 to 5 degrees Fahrenheit per year. Some Bureau of Mines fire control projects are still burning 20 years later due to improper maintenance. In order to assure that these mine fires stay smothered, we must maintain the surface seal until the coal temperatures reach a non-combustible temperature. It is estimated that 3 to 15 years monitoring and maintenance may be necessary to assure success of some projects.

Another maintenance problem is erosion control and re-seeding. Though these problems generally occur in the first few years after the reclamation project, we often see erosion from abnormal rainfall events requiring additional work on our reclamation projects.

In summary, Montana supports the option put forth in S. 643. We foresee the need for a continued effort in abandoned mine reclamation well after the 1992 deadline.

Mine subsidence problems, and maintenance of completed reclamation projects will require continued work though at a reduced funding level. The option of using 10% of the state's allocation to continue reclamation well after 1992 should provide sufficient funds to provide an interest bearing account which will last for as long as necessary to correct abandoned mine problems which we know will occur.

Senator MELCHER. Let us see. Summarize: How many reclamation projects have been identified in Montana: 600 coal alone, is it not?

Mr. BECHTEL. Yes. About 400 of those have been addressed already.

Senator MELCHER. So there are 200 remaining?

Mr. BECHTEL. Yes. It's real surprising, Senator, the extent of coal mining in the State. It takes us by surprise because the hard rock mining so overshadowed the coal mining.

For instance, just in the area of Bozeman, Montana, which no one ever thinks of as a coal mining area, we have identified over a hundred coal sites and some actually undermined roads.

Senator MELCHER. What about the hard rock money? How many of those? Thousands, did you say?

Mr. BECHTEL. Thousands of them.

We have addressed probably about 90 to 95 percent, I am told by the Department. The current projects address priority 1 and 2 projects. But the statute allows you to address hard rock sites as well if they are a part of that priority 1 site. So probably another 5 percent or so will be in that area.

I am told that the State hopes to finish most of its coal projects other than ones that will never be able to be completed, like in the Roundup area, they are hoping to be finished by around 1990, so that they could then address those hundred shafts and tunnels in the Butte area.

Senator MELCHER. Do you think that Montana would create a special trust fund so that AML funds could be set aside?

Mr. BECHTEL. It seems very prudent to us, Senator. As you know far better than I do, we have been very fortunate to have a very well drafted statute out in Montana. It's a very strong regulatory program and predates the Federal.

As a result of that, we have been able to implement almost all our AML program through rule changes within the State. So we can probably accommodate this, although with a rule change, although we would want the State's attorneys to review that.

Senator MELCHER. Just to clarify in my own mind, I think you have stated that there will probably be work remaining in Montana after 1992; is that correct?

Mr. BECHTEL. Yes, because, as I am told, it's just not cost effective at all to go back and backfill the entire void. So what they have done is go in, they are often bell-shaped, and they will try to level those areas or fill them in.

If danger or a problem occurs in later years, they are monitoring those and they go back and repair those again. They find if we were to totally repair each of the voids, we would use our entire fund up on just a few projects and we would have all those open shafts and tunnels being a real grave danger to us.

So it looks like a maintenance program will always be necessary, just given the nature of the problem.

Senator MELCHER. Do you have any suggestion on how administration of State AML grant programs could be improved at our level, the Federal level?

Mr. BECHTEL. I am not as familiar with the program as I should be, Senator. I am told that the State is much more comfortable

with the OSM program in the last few years. We have felt a lot more cooperation there.

The Director might be more cognizant of the problem that was mentioned to me last evening, and that is that evidently the IRS has done, I guess it's called, an individual pocket ruling in which they determine that a reclamation grant program in Ohio was personal income. So that has put a damper on many AML programs across the country.

I am told that Senator Wallop, his State has been forced to basically close that program for the moment, as has Colorado. So that might be something that you might want to look at.

Senator MELCHER. I think there is another bill that has been introduced by Senators Ford and Bingaman to address that.

Does the State have any estimates on AML on reservations in Montana?

Mr. BECHTEL. I am not aware of it. I think they do. They are right now trying to update their inventory. It's a major priority and they are canvasing the State.

They are surprised that about 15 coal projects a year are turned up that we don't even see. People out in the field are informing us of those sites.

Senator MELCHER. Could you supply for the record the most recent data available on that from the State?

Mr. BECHTEL. Absolutely.

[The information referred to follows:]

AML Projects on Indian Lands

PROJECTS IN MONTANA:

CROW:
Completed:
Little Owl, $250,000.
Walter Miller, $250,000.
Anderson, $250,000.
Torry Johnson, $125,000.
Doyle A, $37,500.
Doyle B, $60,000.
Tanner Creek, $120,000.
Lodge Grass, $42,000.
Murry Brown, $80,000.

NORTHERN CHEYENNE:
Completed:
Midway Coal, $123,000.
Under Contract:
Davis Creek, $30,000.
Lame Deer, $98,000.

FORT PECK:
Under Contract:
Smoke Creek, $25,000.
Green Cooley, $125,000.

PROJECTS IN WYOMING:

ARAPAHO:
Under Contract:
Mitchell West, $15,000.
Alkali Butte, $10,000.
Agency Central, $20,000.
Eagle Point, $20,000.

PROJECTS IN NEW MEXICO:

JICARILLA APACHE:
Completed Projects:
Boulder Creek, $24,000.
Under Contract:
Soldier Creek, $35,000.

ZUNI:
Completed Projects:
Pescado, $54,000.

Under Contract:
Nuteria, $32,000.

PROJECTS IN UTAH:

UTE:
Completed Projects:
Red Creek, $30,000.
Under Contract:
Farm Creek, $20,000.

PROJECTS IN COLORADO:

SOUTHERN UTE:
Completed Projects:
Martinez, $25,000.
Soda Springs, $11,000.

PROJECTS IN NORTH DAKOTA:

FORT BERTHAL:
Completed Projects:
Shell Creek, $15,000.

PROJECTS IN SOUTH DAKOTA:

CHEYENNE RIVER SIOUX:
Completed Projects:
Firesteel, $250,000.
Isabelle Baker, $125,000.
Under Contract:
Isabelle Lake, $200,000.
Keller, $150,000.
Tipple, $140,000.
Teozen, $75,000.
Martin, $60,000.

PROJECTS IN ARIZONA:***

SAN CARLOS APACHE:
Under Contract:
Lover Coal Field, $10,000.

NAVAHO:
Under Contract:
Shonto, $350,000.

***Over a million dollars has been spent on AML projects on both the NAVAHO and the HOPI reservations through cooperative agreements rather than through contracts.

This information was received from Keith Lamb, Western OSM Field Office, Denver, Colorado, (303) 844-3068.

Senator MELCHER. Thank you very much, Rich.

Senator Wallop.

Mr. CHRISTENSEN. Thank you.

Senator WALLOP. I just want to thank Mr. Bechtel for coming by here and lending us Montana's feelings on this.

It seems to me it is particularly prudent for those of us who represent States which have a lot of underground fires. We share the problem with you along the Wyoming-Montana border. Indians used to think that was a mysterious holy kind of ground, so it is obvious to me that that is a problem that existed well before abandoned land mine monies were contemplated and certainly will long after 1992.

Mr. BECHTEL. Oh, yes.

Senator WALLOP. It is crazy to think that you are going to find some way to stop all of that in place instantaneously and do it in any kind of cost effective manner. Some of it goes on, as you know.

So I appreciate your testimony here this morning. Thank you very much.

Mr. BECHTEL. Thank you, Senator.

Senator WALLOP. Mr. Chairman, I have a letter from our Governor to Congressman Cheney in support of this. As well, I have a letter from our State's Department of Environmental Quality strongly endorsing this legislation, which I would like to have in the record.

I am told Senator Simpson may have a statement which he would like to put in the hearing record before the day is over.

Senator MELCHER. Those letters that you have, Malcolm, and also Senator Simpson's statement, if he would like to submit it, will be made a part of the record.

Senator WALLOP. Thank you. I appreciate it.

[The material referred to follows:]

STATE OF WYOMING
OFFICE OF THE GOVERNOR
CHEYENNE 82002

MIKE SULLIVAN
GOVERNOR

March 17, 1987

The Honorable Dick Cheney
United States Congressman
104 Cannon House Office Building
Washington, D.C. 20515

Dear Dick:

Thank you for your letter of March 4, 1987, in which you inform me of a bill that the Congressional delegation has introduced to give Wyoming and other states the option of establishing an abandoned mine land trust fund using a portion of the state's share of federal AML funds. I believe this constitutes an important measure which will allow states the flexibility they need to best meet the long-term demands for mined land reclamation. I know I join the citizens of the state in expressing my gratitude for this intitiative taken by the delegation.

You should know that the State will be submitting to the Federal Office of Surface Mining the state law passed this last legislative session on the trust fund. While OSM may have some difficulties in approving the law, given the current AML statutes, we intend to seek approval as a means to focus attention on the long-term needs under the program. I also hope that this action will help strengthen the arguments on the need for a trust fund as you and the other members of the delegation pursue this initiative through Congress.

Thank you again for your letter. Please feel free to contact me if you should have any questions or concerns. With warm personal regards, I am

Very truly yours,

Mike Sullivan

MS:rb

cc: Hon. Malcolm Wallop, U.S. Senate
Hon. Alan K. Simpson, U.S. Senate
Sweetwater County Legislators
Mr. Roger Shaffer

[illegible] 1W-20-'87 17:10 T-WYO DEQ LQD 777-7758 #087-01

THE STATE OF WYOMING

1890-1990 WYOMING CENTENNIAL A LASTING LEGACY

MIKE SULLIVAN
GOVERNOR

Department of Environmental Quality

Administration (307) 777-7937 | Air Quality Division (307) 777-7391 | Land Quality Division (307) 777-7756 | Solid Waste Management Program (307) 777-7752 | Water Quality Division (307) 777-7781

March 30, 1987

The Honorable Malcolm Wallop
United States Senate
210 Russell Senate Office Bldg.
Washington, DC 20510

Dear Senator Wallop:

As you are aware, Wyoming's Abandoned Mine Land Program has been dealing with coal mine subsidence problems in the urban areas of many of our communities. Considering all types of coal mining problems, mine subsidence in urban areas has the most significant direct effect on the public. It can create conditions that suddenly threaten life and result in substantial property loss.

Since 1983 the State's Abandoned Mine Inad Program has spent millions of dollars attempting to predict where mine subsidence will occur and eliminating the potential. We have learned from this experience that there are no simple solutions for the mine subsidence problem. We have found the sciences for subsidence prediction and the technologies for subsidence control to be in their infancy and unproven. We could spend hundreds of millions of dollars remotely backfilling old mine voids with sand and cement in hopes of stopping subsidence. We are confident that even with this large expenditure there would continue to be progressive mine subsidence problems beyond our lifetime. There must be a more economical way to assist the public with this problem.

The special trust fund bill that has been introduced by yourself and Senator Simpson is part of the solution. As you are aware, Congress authorized states to utilize up to $3 million of their Abandoned Mine Land Funds to develop a mine subsidence insurance program. This insurance program will persist beyond the life of the Abandoned Mine Land Program and shall assist property owners with repair of improvements damaged by mine subsidence. However, the insurance program does not cover repair of the land. We have found many occasions where land adversely affected by subsidence must be treated to eliminate deep subsidence holes or restore stability beneath improvements. The Abandoned Mine Land Program presently fulfills this function, however no such assistance shall be available beyond

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the Program lifetime, which is estimated to conclude in 1995. The special trust fund legislation would certainly offer Wyoming the flexibility it needs to effectively deal with complex abandoned mine land problems. The State attempted several years ago to obtain a similar type of funding through the Office of Surface Mining from our abandoned mine land monies. Our request was denied because it could not be authorized under Title IV of the Surface Mine Control and Reclamation Act. This office certainly supports the special trust fund concept you are proposing.

Sincerely,

Roger Shaffer
Administrator

RS:GB:ll
cc: Honorable Alan Simpson
Honorable Dick Cheney
Governor Mike Sullivan

STATEMENT OF SENATOR ALAN SIMPSON

BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

REGARDING

S. 643, A BILL TO AMEND SECTION 402 OF THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977

Mr. Chairman, I appreciate the opportunity to provide comments today regarding S. 643 -- a bill introduced by my fine friend and colleague Malcolm Wallop and myself on March 3, 1987. This bill is intended to amend section 402 of the Surface Mining Control and Reclamation Act of 1977.

This bill would permit all states to set aside in a special trust fund, up to 10 percent of the annual state allocation which each state receives from the Abandoned Mine Lands Reclamation Fund. These funds would then be used for future abandoned mine reclamation efforts.

This bill came about as the direct result of the concerns that Wyomingites expressed to their congressional delegation about the continued need for surface mining reclamation work after the termination of the Abandoned Mine Land Program in 1992. In order to address these very real concerns, S. 643 was introduced. The legislature in Wyoming has now concluded its 1987 session, and during that session it passed legislation establishing such a trust fund in the event that federal legislation did indeed become a reality.

The very obvious need for this legislation is seen when we examine current law. Under the current reclamation laws there is a three year limitation on all states which receive "state share" monies. This limitation requires that each state which receives these state share monies must expend those monies within three years of the allocation -- or otherwise lose those allocations and return them to the Secretary of Interior for expenditure in any eligible area as the Secretary may deem fit.

This bill will remove the three year limitation and allow expenditures after 1992. Each state may create its own

trust fund for use in those locations and at such times as the state believes to be most prudent.

Mr. Chairman, in my State of Wyoming, and in other states which produce vast quantities of coal, the coal companies have paid millions of tax dollars into the Abandoned Mine Land Program. This legislation will provide the state with more flexibility in the expenditure of those taxes collected as a result of mining in Wyoming. The legislation also properly retains federal restrictions on the purposes for which that money can be used.

I am most pleased to support this legislation, and I do appreciate your support and cooperation, Mr. Chairman, in providing for this hearing. I also appreciate your efforts to report this bill favorably to the full committee for further action. I stand at the ready to provide any additional assistance which you might deem useful in bringing about the passage of this legislation.

Senator MELCHER. There may be other statements of interested States and interested parties, so we will hold the record open for 7 days for receiving any such statements.

If it is your wish, Malcolm, we will get another body here and report the bill to the full committee.

Senator WALLOP. I have Senator Hecht's proxy.

Here is another body. [Laughter.]

Very timely.

Senator MURKOWSKI. I was told it was very important to be here. Now I am just another body.

Senator MELCHER. The rules call for a quorum of three for the subcommittee to act. However, it would be my intention to also ask any of the other members how they would like to, if they would like to confirm by their vote, and that the subcommittee recommended passage of the bill to the full committee.

If there are no further comments, without objection, the bill will be reported affirmatively to the full committee.

Senator WALLOP. Mr. Chairman, thank you. Let me just say that Senator Hecht did register his support.

Senator MELCHER. That is four of us all voting "aye." We will ask the others, and Senator Ford also has provided his proxy. That is five of us.

And we will ask the other four members of the subcommittee if they choose to indicate approval or disapproval.

I believe that is all there is to come before the subcommittee. We are adjourned.

[Whereupon, at 10:45 a.m., the hearing was adjourned.]

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